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*1743*

Docket No. ASP-45

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Szu-Min Lin et al. Confirmation No.: 7469  
Appln. No. : 10/042,904 Art Unit : 1743  
Filed : January 9, 2002 Examiner : L.I. Cross  
Title : LIQUID MEASURING DEVICE AND METHOD OF USING

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May 11, 2006

(Date of Deposit)

Andrew C. Farmer

(Name of applicant, assignee, or Registered Representative)

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(Signature)

May 11, 2006

(Date of Signature)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RESPONSE

Dear Sir:

This paper is filed responsive to the Office Action mailed January 11, 2006 in the above-identified matter. A petition for extension of time for one month is being filed concurrently herewith. Presently, claims 10 to 26 are pending in the application. All of the claims stand rejected under 35 U.S.C. §102(e) over the Moriarty et al U.S. Patent No. 6,045,757. All the claims also stand rejected under the doctrine of obviousness-type double patenting over claims 1 to 47 of the Lin U.S. Patent No. 6,360,595. Applicants respectfully traverse the rejections and request reconsideration and reexamination of the application.

Examiner has rejected all of the claims as being anticipated by Moriarty et al. To anticipate, a prior art reference must contain each and every limitation of the claimed

invention. Applicants submit that the Moriarty et al. reference fails to contain each and every limitation of the presently claimed invention. Specifically, claim 10 defines at least one chemical reactive with the analyte in the first barrel between the retainer and the barrier. The Moriarty et al. reference lacks such a feature and therefore fails to anticipate claim 10 as well as the remaining rejected claims which depend from either directly or indirectly from claim 10.

The Examiner has rejected all of the claims over on claims 1 to 47 of the Lin et al '595 patent, the parent application to the present application. Applicants submitted a terminal disclaimer which was rejected by the Examiner. Specifically, the Examiner cites lack of evidence as to the ownership interest. Applicants point the Examiner to Reel number 012254 at Frame number 0688 wherein is recorded an assignment which assigns to Ethicon, Inc. all rights in both the parent application and the present application.

Applicants submit that the application is presently in condition for allowance and request favorable reconsideration and early Notice of Allowance of the application. If it would speed prosecution, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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Dated: May 11, 2006